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**Lawrence Fenster**  
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ORIGINAL

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April 13, 1999

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, DC 20554

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APR 13 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: CC Docket No. 90-571, Proposals for Telecommunications Relay Fund  
Administrator**

Dear Ms. Salas:

On March 31, 1999, the National Exchange Carrier Association (NECA) submitted a letter in the above-mentioned docket.

MCI WorldCom, Inc. respectfully submits the attached letter in response.

Sincerely,

*Lawrence Fenster*

Lawrence Fenster

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**Re: CC Docket No. 90-571, Proposals for Telecommunications Relay Fund  
Administrator**

Dear Ms. Salas:

On March 31, 1999, the National Exchange Carrier Association (NECA) responded to MCI WorldCom, Inc.'s (MCI WorldCom) recommendation that the Commission appoint NECA to a one-year term as Administrator of the Telecommunications Relay Service (TRS) Fund. MCI based that recommendation on three contentions: 1) that although NECA may be an adequate administrator, the Commission can not be reasonably certain that NECA is minimizing the costs of administering the TRS Fund unless it examines competing bids; 2) the Commission did not take timely action to encourage neutral third parties to submit bids to be appointed TRS Fund Administrator; and 3) neither NECA, nor the Commission, directed the TRS Advisory Committee (Committee) to encourage neutral third parties to submit bids to be appointed as the TRS Fund Administrator.<sup>1</sup>

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<sup>1</sup>MCI WorldCom Reply Comments at 2.

NECA's March 31, 1999 letter fails to respond to any of these contentions. First, NECA reiterates its argument that it has been an adequate administrator, a point which MCI WorldCom does not dispute. NECA rightly fails to claim it is the most efficient administrator, since that would properly be determined through a process of competitive bidding.

Second, NECA argues that other entities interested in being appointed TRS Fund Administrator were in effect notified that they would have an opportunity to submit bids in 1999, when the Commission appointed them interim administrator in June 1995. Once again, NECA does not address MCI WorldCom's primary contention -- that the Commission did not make an effort to "...ensure that neutral third-parties submit proposals to become fund administrator."<sup>2</sup> Since issuing its Order appointing NECA as interim administrator in 1995, the Commission has not taken any steps to encourage multiple bids for fund administrator, in sharp contrast to its efforts to ensure multiple bids for North American Numbering Plan Administrator (NANPA) Fund. The public was only notified of the opportunity to submit bids to become TRS Fund Administrator on February 4, 1999. Potential bidders were only given 15 working days to comply with the Commission's requirement that they provide a "...detailed statement and itemization of expected administrative expenses."<sup>3</sup>

Third, and most troubling, is NECA's failure to respond to MCI WorldCom's concern about its potential conflict of interest between its function as organizer of the TRS Advisory Committee and its desire to be reappointed TRS Fund Administrator. The TRS Advisory Committee was established to monitor TRS cost recovery matters.<sup>4</sup> The Committee has a very real interest in discovering whether NECA's administrative costs might be reduced if it were to face a bid from a competing entity wishing to be chosen TRS fund administrator. The minutes of the TRS Advisory Committee meetings show that NECA never made the Committee aware that other entities were entitled to bid to become TRS Fund Administrator. Nevertheless, at both the September, 1997 and March, 1998 meetings, NECA made presentations to the Advisory Committee of its role as the (sole) TRS Fund Administrator.<sup>5</sup>

MCI WorldCom is also concerned about the influence NECA may have exerted over the composition of the TRS Advisory Committee. NECA reports that it asked members of each of the 5 representative groups to choose 2 representatives.<sup>6</sup> Yet, only one interstate carrier

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<sup>2</sup>Ibid.

<sup>3</sup>Notice at 1.

<sup>4</sup>47 C.F.R. 64.604(c)(iii)(H).

<sup>5</sup>See Telecommunications Relay Services Fund Payment formula and Fund Size Estimate, Appendix B, Exhibit 2, Interstate TRS Advisory Council Meeting Minutes: September 19, 1997 and March 4, 1998, submitted October 1, 1998.

<sup>6</sup>Those groups include representatives from: hearing and speech disabled community, TRS users, interstate service providers, state representatives, and TRS providers. See 47 C.F.R. §

representative has been chosen, and it is a NECA member.<sup>7</sup>

The cozy, non-arms-length, relations NECA has established with the TRS Advisory Committee must be corrected. The Commission should immediately open a Notice of Proposed Rulemaking with the goal of ensuring an arms-length relation between the administrator of the TRS Fund and the Committee mandated to review its cost effectiveness. The Rulemaking should also have the goal of identifying procedures to ensure that entities other than NECA have been identified, solicited, given sufficient time, and sufficient access to NECA records to submit competing bids to become TRS Fund Administrator. The Commission should also condition this Notice with a one year, interim, appointment of NECA as TRS Fund Administrator.

Sincerely,

*Lawrence Fenster*

Lawrence Fenster

cc: Ms. Anna Gomez, Network Services Division  
Ms. Debra Sabourin, Network Services Division  
Ms. Marilyn Jones, Network Services Division  
John Ricker, NECA

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64.604(c)(iii)(H).

<sup>7</sup>Interstate TRS Advisory Council Membership, Appendix B, Exhibit 1, Interstate TRS Advisory Council Meeting Minutes, submitted October 1, 1998. NECA reports that as of March 4, 1998, Wabash Telephone Cooperative (Wabash) is the only interstate carrier representative. Wabash is a small local exchange company that receives both long term support and local switching support through the mechanisms administered by NECA.

### Certificate of Service

I, Barbara Nowlin, do hereby certify that a copy of MCI WorldCom's Letter has been sent by United States first class mail, postage prepaid, hand delivery, to the following parties on this 13<sup>th</sup> day of April, 1999.

Jodie Donovan-May  
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*Barbara Nowlin*

\*\* Hand Delivery

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Barbara Nowlin